

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
THEODORE ITZKOWITZ,	:	
	:	
Plaintiff,	:	Index No. 07 CV 3783 (JGK)
	:	
-against-	:	
	:	
ISRAEL DISCOUNT BANK OF NEW YORK,	:	
ISRAEL DISCOUNT BANK OF NEW YORK	:	
SEVERANCE PLAN FOR SPECIFIED	:	
EXECUTIVES, ISRAEL DISCOUNT BANK OF	:	
NEW YORK SEVERANCE PLAN, ISRAEL	:	
DISCOUNT BANK OF NEW YORK DEFERRED	:	
COMPENSATION PLAN, and PENSION PLAN	:	
FOR EMPLOYEES OF ISRAEL DISCOUNT	:	
BANK OF NEW YORK,	:	
	:	
Defendants.	:	
-----X	:	

I, Susan Rinaldi, pursuant to 28 U.S.C. §1746, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct:

1. I am currently employed by Israel Discount Bank of New York ("IDBNY") as First Vice President of Human Resources. I submit this Declaration in support of IDBNY's motion to dismiss the Fourth and Fifth Counts of plaintiff Theodore Itzkowitz's Complaint.

2. I have been IDBNY's First Vice President of Human Resources since January 1, 2003. As First Vice President of Human Resources, I am responsible, among other things, to administer IDBNY's employee benefit plans.

3. I am fully familiar with the Deferred Compensation Plan, attached to Plaintiff's Complaint as Exhibit 3 and the Pension Plan attached to Plaintiff's Complaint as Exhibit 4. Mr. Itzkowitz is a participant under each of those Plans.

4. I am informed that Mr. Itzkowitz is claiming in his Complaint that IDBNY has not paid him amounts he claims due under the Deferred Compensation Plan and the Pension Plan. I also understand that he alleges that IDBNY has not denied his claims for benefits under these plans, but he claims that IDBNY has not provided him with forms to pursue the benefits he alleges he is owed.

5. It is true that IDBNY has not denied him benefits under the Deferred Compensation Plan and Pension Plan. The remaining allegations in his Complaint regarding these matters, however, are inaccurate.

6. On June 1, 2007, I sent a letter to Mr. Itzkowitz to advise him of his vested retirement benefits under the Pension Plan. I also provided him with a detailed statement of his benefits under the Deferred Compensation Plan. A true and correct copy of this correspondence (which has been redacted to exclude his financial and other personal information) is attached to this declaration as Exhibit A.

7. With regard to Mr. Itzkowitz's claim for benefits under the IDBNY Deferred Compensation Plan, the documents that I provided to him with my June 1 correspondence demonstrate that not only is he entitled to benefits under the Deferred Compensation Plan, but it also outlines the financial components of those benefits.

8. Similarly, with regard to Mr. Itzkowitz's claim for benefits under the Pension Plan, the document that I provided to him on June 1 demonstrates that not only is he entitled to benefits under the Pension Plan, but it also outlines the financial components and restrictions regarding those benefits.

9. Mr. Itzkowitz was terminated from IDBNY in September 2006. As a result, any determination regarding benefits to which he was entitled under the Deferred Compensation Plan could not be made until after the close of the year on December 31, 2006.

10. IDBNY has retained the firm of Watson Wyatt as IDBNY's pension actuary. Watson Wyatt performs the necessary financial analysis regarding benefits to which terminated employees are entitled. Upon the close of the year on December 31, 2006, IDBNY provided Watson Wyatt with the list of employees who terminated during 2006 as well as salary information. With respect to the Deferred Compensation Plan, once IDBNY receives certain information regarding the interest rate to be applied to those benefits (i.e., the Return on Equity rate or LIBID rate), IDBNY provides that information to Watson Wyatt so that Watson Wyatt can perform the calculations. I received the interest rate information on March 26, 2007. IDBNY provided this information to Watson Wyatt, and as soon as IDBNY received the calculations, it provided the Deferred Compensation Plan Statement of Benefits to Mr. Itzkowitz on June 1, 2007 (which is attached in redacted form as Exhibit A). As a result, the information Mr. Itzkowitz requested simply could not be provided until Watson Wyatt completed its calculations.

11. IDBNY received the information from Watson Wyatt confirming the payout amounts to Mr. Itzkowitz for the Deferred Compensation Plan on July 2, 2007. This amount will be paid to him on August 2, 2007.

12. Like the calculation of benefits under the Deferred Compensation Plan, IDBNY was required to wait for Watson Wyatt to complete its analysis regarding the benefits for which Mr. Itzkowitz was eligible under the Pension Plan. IDBNY provided this information to Mr. Itzkowitz, which is attached in redacted form as Exhibit A, when IDBNY received it from Watson Wyatt. Because Mr. Itzkowitz was a top 25 paid employee of IDBNY, and because the funded current liability percentage for the pension was less than 110% of its value, applicable pension regulations subject him to restrictions on the issuance of a lump sum distribution in 2007. I informed Mr. Itzkowitz of this restriction in my June 1 correspondence (see Exhibit A).

I also informed him in that same correspondence that if the 2007 funding valuation produced a funded current liability of 110% or greater, the restrictions will be lifted. IDBNY expects that the funding determination as to the Pension Plan will be made by the end of this month.

13. On June 27, 2007, I received correspondence from Mr. Itzkowitz in which he seeks to enter into an agreement to post collateral in a form acceptable to IDBNY so that he may withdraw his pension funds. I further understand that IDBNY's attorneys are working with his counsel in an effort to accommodate this request.

14. IDBNY has fully complied with all of its obligations with respect to the Deferred Compensation Plan and in fact will be making a distribution to Mr. Itzkowitz on August 2, 2007. Likewise, IDBNY has fully discharged its obligations to provide him with necessary information concerning benefits to which he entitled under the Pension Plan.

Dated: July 6, 2007
New York, New York

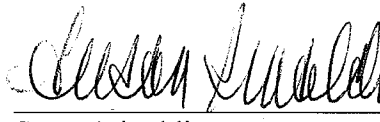

Susan Rinaldi

EXHIBIT A



June 1, 2007

Theodore Itzkowitz
82 Orange Drive
Jericho, NY 11753

Dear Mr. Itzkowitz:

We are writing to advise you of your rights for Vested Retirement Benefit, under the Pension Plan for Employees of Israel Discount Bank of New York. You may choose one of the following forms of payment shown below.

Please note the following very important information:

You are a top 25 paid employee of the controlled group and therefore may be subject to Qualified Plan lump sum restrictions imposed for 2007 – our projections indicate that the funded current liability (FCL%) is less than 110% of actuarial assets as of 1/1/2007. If the 2007 funding valuation produces a FLC% of 110% or greater, the restrictions will be lifted. Until that time, the lump sum shown cannot be paid out as usual – PLEASE SEE SEPARATE ATTACHMENT FOR DETAILS.

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Re: Mr. Theodore Itzkowitz

REDACTED

Your benefits for the Qualified Plan are payable as either I, II or III, below:

I. Qualified Plan Benefits		
Retirement Allowance to Commence December 1, 2016 (Age 65)		
	Monthly Allowance Payable To:	
Form of Allowance	Member	Spouse Upon Member's Death
Life Annuity	[REDACTED]	N/A
50% Joint and Survivor	[REDACTED]	[REDACTED]
100% Joint and Survivor	[REDACTED]	[REDACTED]
25% Lump Sum *	[REDACTED]	N/A
10 Year Certain & Continuous	[REDACTED]	[REDACTED]

* Plus a single payment of [REDACTED] payable June 30, 2007.

** If death occurs within the first 10 years of benefit commencement, this amount will be paid to the beneficiary for the remainder of the 10 year period.

REDACTED

II. Qualified Plan Benefits		
Retirement Allowance to Commence July 1, 2007		
	Monthly Allowance Payable To:	
Form of Allowance	Member	Spouse Upon Member's Death
Life Annuity	[REDACTED]	N/A
50% Joint and Survivor	[REDACTED]	[REDACTED]

Note: Alternate benefit options are available upon request.

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Re: Mr. Theodore Itzkowitz

REDACTED

III. Qualified Plan Benefits		
Lump Sum Payment as of June 30, 2007		
Interest Rate Basis	Interest Rate for April 2007	Amount of Lump Sum (subject to Top 25 Paid restrictions *)
30-Year Treasury Rate (GATT)	4.87%	[REDACTED]
<p>Notes: 1) Lump sum amount must be recalculated if paid after June 30, 2007.</p> <p>2) The RR 2001-62 mortality table was used to calculate the lump sum, as mandated by the IRS in Revenue Ruling 2001-62 for lump sum payments on or after December 31, 2002.</p> <p>* 3) The projected Funded Current Liability Percentage for the Pension Plan as of 1/1/2007 is less than 110% and therefore restrictions may exist on lump sums paid to the 25 highest paid employees of the controlled group. This lump sum CANNOT be paid as usual until an actual determination is available - Please see separate memo for more details.</p>		

The amounts given in this letter are based on the following information:

Birth date:

Social Security Number

Vested Benefit Commencement Date:

July 1, 2007

Credit Service:

25 yrs

Average final compensation:

Please note, if you elect either the life annuity or a lump sum payment, your spouse must execute a Spouse's Consent form, which must be signed before a notary public or witnessed by an officer in the Personnel Department.

If you elect a lump sum payment you must complete a "Direct Rollover Application Form" and a "Certification of a Participant or Spousal Beneficiary Electing An Eligible Rollover Distribution".

If you elect a monthly retirement allowance you may have your taxes withheld from your monthly check by completing IRS form W-4P which is enclosed.

Please complete the enclosed Election of Benefits form and return it to us in the envelope provided together with the appropriate forms.

A Summary Plan Description is also enclosed.

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Re: Mr. Theodore Itzkowitz

REDACTED

In addition, you are eligible for a SERP benefit payable as a lump sum, shown below. **(PLEASE NOTE THAT SERP LUMP SUM NOT PAYABLE UNTIL JULY 1, 2007).** The equivalent monthly life annuity payable December 1, 2016 (NRD) is [REDACTED]. The SERP benefit calculation is based on your pay deferred under the Deferred Compensation Plan and pay in excess of the statutory pay limits imposed in the qualified plan.

SERP Benefit		
Lump Sum Payment as of July 1, 2007		
Interest Rate Basis	Interest Rate for July 2006	Lump Sum
30-Year Treasury Rate (GATT)	5.13%	[REDACTED]
<p>Notes: 1) <i>Lump sum amount should be recalculated if paid after July 2007.</i></p> <p>2) <i>The RR 01-62 mortality table was used to calculate the lump sum, as mandated by the IRS in Revenue Ruling 2001-62 for lump sum payments on or after December 31, 2002.</i></p> <p>3) <i>The lump sum was determined in accordance with Section 409A of the Code such that the distribution of the SERP lump sum cannot be paid out until the earlier of (i) the end of the 6-month period following date of termination or (ii) death. The SERP lump sum was determined as of the end of the month of termination (using lump sum rate in effect for the second month prior to termination date), with interest (at lump sum rate) applied through payment date (no earlier than 6 months from date of termination, or first day of 7th month).</i></p>		

Please feel free to address any questions you may have concerning your retirement and the above benefits to me.

Very truly yours,



Susan Rinaldi
First Vice President
For The Plan Administrator

Enclosed:

- 1 Copy of Application for Retirement
- 1 Copy of Election of Benefits Form
- 1 Direct Rollover Application Form
- 1 Certification of a Participant or Spousal Beneficiary Electing an Eligible Rollover Distribution
- 1 Copy of Special Tax Notice
- 1 Copy of W-4P Form
- 1 Copy of Information for Spouses
- 1 Copy Spousal Consent Form
- 1 Copy of Comparison of Relative Value
- 1 Copy Summary Plan Description
- 1 Copy of Notice of Participant's Right to Defer Benefit Commencement